

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MICHAEL A. McCANN)	
)	
Plaintiff,)	
)	CIVIL ACTION NO. 4:15-cv-162
v.)	
)	
SPENCER PLANTATION)	
INVESTMENTS, LTD. and)	
INTERNAL REVENUE SERVICE,)	
)	
Defendants.)	

NOTICE OF REMOVAL

The United States of America, on behalf of the Internal Revenue Service, files this Notice of Removal of Plaintiff's Sworn Original Petition to Quiet Title now pending as Case No. 79855-CV, in the District Court, 23rd Judicial District, of Brazoria County, Texas, for the following reasons:

1. On December 24, 2014, Michael A. McCann filed Plaintiff's Sworn Original Petition to Quiet Title in the state District Court against Defendants Spencer Plantation Investments, Ltd. and the Internal Revenue Service.

2. The Petition seeks to quiet title to two tracts of property (described in Exhibit C), alleging that the Internal Revenue Service did not have legal title to sell the property at public auction to Spencer Plantation Investments, Ltd. in March 2014 because he was not given proper notice of the sale and because he does not owe federal income taxes for years 1996-1999 and 2003-2006. The Petition also seeks damages in excess of \$10 million.

3. On December 24, 2014, McCann also filed a Notice of Lis Pendens with respect to his Original Petition to Quiet Title in the state District Court.

4. The United States of America, not the Internal Revenue Service, is the proper defendant in an action to quiet title to property due to the federal tax liens against the Plaintiff.

5. Pursuant to 28 U.S.C. 1446(a), copies of process (none), pleadings (Original Petition to Quiet Title), and orders (none) received by the Internal Revenue Service, David B. Mora, Special Assistant United States Attorney, Houston, Texas on December 29, 2014, are attached as described in Paragraph 6.

6. Pursuant to Local Rule 81, attached are:

a. All executed process in the case:

None.

b. Pleadings asserting causes of action, e.g., petitions, counterclaims, cross actions, third-party actions, interventions and all answers to such pleadings:

Plaintiff's Sworn Original Petition to Quiet Title, attached as **Gov. Exhibit**

1.

c. All orders signed by the state judge:

None.

d. The docket sheet:

State Court Docket Sheet, Case No. 2012-66600, attached as **Gov. Exhibit**

2.

e. An index of matters being filed attached as **Gov. Exhibit 3.**

f. A list of all counsel of record, including addressees, telephone numbers and parties represented, attached as **Gov. Exhibit 4**.

7. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1441, 1442, and 1446, as the action in State court was a civil action to quiet title to property due to the federal tax liens against the Plaintiff.

8. This Court has original subject matter jurisdiction of this action by virtue of 28 U.S.C. § 1331, 1335, and 1346.

Wherefore, the United States of America gives notice that Plaintiff's Sworn Original Petition to Quiet Title, now pending in the District Court, 23rd Judicial District, of Harris County, Texas, is removed to this Court.

KENNETH MAGIDSON
United States Attorney

/s/ Waymon G. DuBose, Jr.
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ATTORNEYS FOR THE UNITED STATES

CERTIFICATE OF SERVICE

I certify that on January 20, 2015, I caused a copy of the foregoing Notice of Removal to be electronically filed with the Clerk of the Court using CM/ECF system. I also certify that I served a copy of the Notice of Removal by U.S. Mail, postage prepaid, to:

Michael A. McCann, *pro se*
P. O. Box 66
Brazoria, Texas 77422

/s/ Waymon G. DuBose, Jr.
WAYMON G. DuBOSE, JR.